

AMENDMENT TRANSMITTAL LETTER (Large Entity)

Applicant(s): Sun et al.

Docket No.

DEX-0154

Serial No.

09/762,027

Filing Date

August 6, 2001

Examiner

Myers, Carla J.

Group Art Unit

1634

Invention: A Novel Method of Diagnosing, Monitoring, Staging, Imaging and Treating Breast Cancer

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TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Transmitted herewith is an amendment in the above-identified application.

The fee has been calculated and is transmitted as shown below.

CLAIMS AS AMENDED

	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST # PREV. PAID FOR	NUMBER EXTRA CLAIMS PRESENT	RATE	ADDITIONAL FEE
TOTAL CLAIMS	24 -	24 =	0 x	\$18.00	\$0.00
INDEP. CLAIMS	7 -	7 =	0 x	\$84.00	\$0.00
Multiple Dependent Claims (check if applicable) <input type="checkbox"/>					\$0.00
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT					\$0.00

- ☒ No additional fee is required for amendment.
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- ☒ Any additional filing fees required under 37 C.F.R. 1.16.
- ☒ Any patent application processing fees under 37 CFR 1.17.


Signature

Dated: October 28, 2002

Kathleen A. Tyrell, Registration No. 38,350

LICATA & TYRRELL P.C.
66 East Main Street
Marlton, New Jersey 08053
Tel : 856-810-1515
Fax: 856-810-1454

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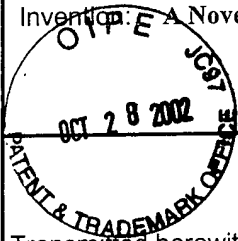
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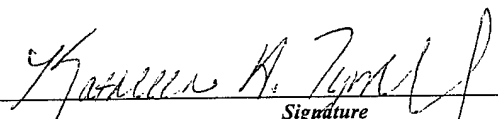
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 Signature
 Kathleen A. Tyrell, Registration No. 38,350

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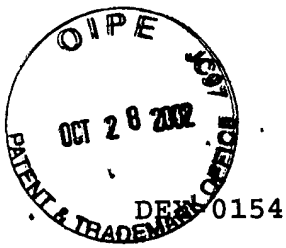
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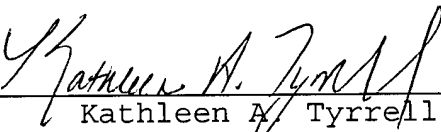
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- 1) Amendment Transmittal Letter (in duplicate);
- 2) Response to Restriction Requirement;
- 3) Return Postcard.


Kathleen A. Tyrrell



#10

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: DEX-0154
Inventors: Sun et al.
Serial No.: 09/762,027
Filing Date: August 6, 2001
Examiner: Myers, Carla J.
Group Art Unit: 1634

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Title: A Novel Method of Diagnosing,
Monitoring, Staging, Imaging and
Treating Breast Cancer

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By 
Typed Name: Kathleen A. Tyrrell

U.S. Patent and Trademark Office
Box Non-fee Amendment, P.O. Box 2327
Arlington, VA 22202

Dear Sir:

Reply to Restriction Requirement

This is a reply to the Restriction Requirement mailed
September 26, 2002 setting a one (1) month statutory period for
response. Please enter the following remarks into the record.

REMARKS

Claims 1-14 are pending in the instant application. Claims



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Attorney Docket No.:

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1-14 have been subjected to a Restriction Requirement as follows:

Group I, claims 1-9, drawn to methods of detecting BSG nucleic acids;

Group II, claims 1-9, drawn to methods of detecting BSG proteins;

Group III, claims 10-12, drawn to BSG antibodies and methods of *in vivo* imaging using said antibodies; and

Group IV, claims 13 and 14, drawn to methods of treatment using BSG antibodies.

The Examiner suggests that the invention listed as Groups I-IV do not relate as a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding technical feature.

The Examiner also suggests that each Group detailed above reads on patentably distinct inventions drawn to multiple SEQ ID Numbers and has required further election to a single BSG sequence selected from the group consisting of SEQ ID NO: 1-9.

Applicants respectfully traverse this Restriction Requirement.

At the outset, it is respectfully pointed out that the Examiner's suggestion that "the inventions listed as Groups I-IV do not relate to a single general inventive concept under PCT



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Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical feature" directly contradicts both the Search Report and the Written Opinion issued by this same Examiner in the PCT application of which this case is the U.S. National Stage.

Further, MPEP §803 provides two criteria which must be met for a restriction requirement to be proper. The first is that the inventions be independent or distinct. The second is that there would be a serious burden on the Examiner if the restriction is not required. A search of the prior art relating to pending claims 1-14 has already been performed by this Examiner in the PCT application. Thus, there is clearly no burden placed upon the Examiner by including all claims in this case, since the full claim set was already searched and examined by the Examiner in the PCT application.

Further, the Examiner has provided no evidence in this Restriction Requirements to support the contention that the Groups have acquired separate status in the art.

Accordingly, since this Restriction Requirement does not meet both criteria as set forth in MPEP § 803 to be proper, it is respectfully requested that this Restriction Requirement be withdrawn.



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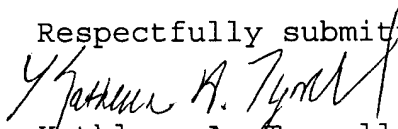
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In an earnest effort to be completely responsive, however, Applicants elect Group III, claims 10-12, and SEQ ID NO:4, with traverse.

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record.

Respectfully submitted,


Kathleen A. Tyrrell
Reg. No. 38,350

Date: October 28, 2002

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